



# Memorandum

**TO:** PLANNING COMMISSION

**FROM:** Stephen M. Haase

**SUBJECT:** SEE BELOW

**DATE:** August 7, 2002

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**COUNCIL DISTRICT:** Citywide  
**SNI AREAS:** N/A

**SUBJECT: PROPOSED AMENDMENTS TO CHAPTERS 20.10 AND 20.20 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO INCLUDE A SETBACK EXCEPTION FOR THE AGRICULTURE AND OPEN SPACE ZONING DISTRICTS AND TO INCLUDE A PROVISION ADDRESSING A DEFAULT ZONING DISTRICT FOR PROPERTIES THAT HAVE NOT BEEN DESIGNATED WITH A PARTICULAR ZONING DISTRICT**

## **RECOMMENDATION**

Planning Staff recommends that the Planning Commission forward to the City Council a recommendation to adopt the proposed ordinance amending the Zoning Code, Title 20 of the San Jose Municipal Code, as it pertains to inclusion of a setback exception for properties zoned either A-Agriculture or OS-Open Space and to adopt a provision to address those properties within the City that have not been designated with a zoning district.

## **BACKGROUND**

The Zoning Code Update (ZUP) was adopted by City Council December 2000. As part of the update, the zoning districts were aligned with San Jose 2020 General Plan land use designation categories to further implement the General Plan goals and policies. Zoning districts were modified to reflect the key intent or purpose of the district. The A-Agriculture Zoning District land use regulations were modified consistent with the General Plan land use designation of Agriculture to reflect a truly agricultural district. The OS-Open Space Zoning District was modified consistent with the General Plan designation of Non-Urban Hillside.

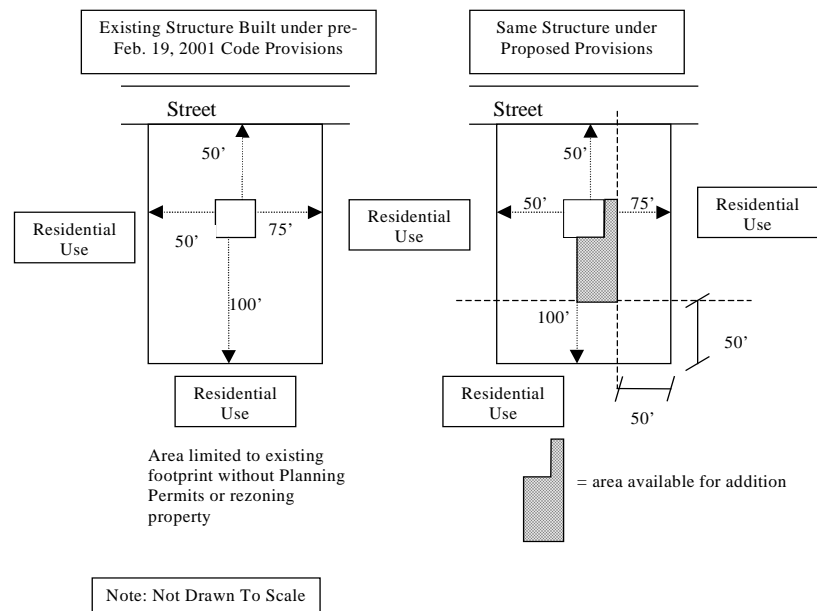
**ANALYSIS****Agricultural Zoning District Regulations**

Currently, a large number of properties (over 550) are either partially or entirely zoned A-Agriculture and are scattered throughout the City, both in the urban infill areas and in the more rural fringes of the City. Many of these properties range in size from a few acres to less than one acre, and involve a non-agricultural use on the site. Generally, the uses can be categorized as either being residential, public/quasi-public, or commercial. Property owners have experienced an inability to meet the existing development regulations given the size of their property and have found themselves in a situation that would require a relatively lengthy permitting process in relation to the desired amount of development (e.g., a minor addition to a single-family house).

Prior to the adoption of the Zoning Code Update, the land use regulations of the A-Agriculture Zoning District required a minimum lot size of 6,000 square feet and a setback of 50 feet from abutting streets and highways and abutting property lines. The current Zoning Code requires a minimum lot size of 20 acres in the A-Agriculture Zoning District. Setbacks from abutting streets and highways and from abutting property zoned or used for something other than residential uses is 50 feet. Setbacks from abutting property either zoned or used for residential purposes is now 300 feet. Any new development has to conform to the development regulations of the A-Agriculture Zoning District. The inability to meet the 300-foot setback requirement from residential uses or residentially zoned property motivated this Code amendment.

In order to facilitate limited development, but not to perpetuate a non-agricultural use without the benefit of rezoning, staff is proposing to allow additions of new structures or expansions of existing structures under certain circumstances. Existing structures must have been legally established prior to

February 19, 2001 (i.e., the effective date of the Zoning Code Update) in order to allow for new additions under the proposed provision. The proposed setback exception would allow one to maintain the existing setback and develop in a direction away from adjacent residential uses or zoned properties, or allow development up to, but no closer than, 50 feet to the adjacent residential use or zoned property. The proposal would limit the amount of new



development to 50 percent of the existing square footage on the site and would limit the total aggregate development on the site to 50 percent of the pre-existing development. Development proposals unable to stay within the proposed parameters would be required to go through a permitting process. The proposed amendment would allow for a limited amount of development that would otherwise be circumstantially limited because of the inability to meet the required 300-foot setback for structures located adjacent to residential uses or properties zoned for residential use. As shown in the illustration above, under the first scenario, the existing structure (built before February 19, 2001) would be limited to the existing building footprint given the current setback requirements, unless the property owner obtained a permit or rezoned the property. The second scenario illustrates the potential developable area, provided it meets the proposed criteria, under the proposed setback exception.

The proposed Code change is intended to address a majority of the properties currently experiencing difficulties with expanding existing structures. Staff is aware of the fact that not every property owner would be able to utilize the proposed exception due to unique situations, lot configuration or size, or other circumstances. In some cases, one would benefit from a rezoning of the property where land use issues can be complex (i.e., site design, parking, ingress/egress issues), as in the case of some commercial uses.

### **Open Space Zoning District Regulations**

The proposed setback exception provisions are also intended to apply to the OS-Open Space Zoning District, despite the low number of properties zoned OS-Open Space. Setback regulations for the OS-Open Space Zoning District were also modified during the Zoning Code Update process. Prior to February 19, 2001, the land use regulations for this district required a minimum lot size of 10 acres, a front setback of 50 feet, and a side and rear setback of 25 feet. Current provisions require a minimum lot size of 20 acres and a 50-foot setback from abutting streets and highways and from abutting property zoned or used for other than residential uses. Setbacks from abutting property either zoned or used for residential purposes is now 300 feet, similar to the A-Agriculture Zoning District. Staff recommends the same Code amendments for the OS-Open Space Zoning District as discussed above for the A-Agriculture District to address similar issues with meeting the greater setback requirements and provide for a level of consistency between the two zoning districts.

### **Other Code Change—Default Zoning District**

As part of the proposed Code amendment, staff is also proposing to include a provision to proactively address the potential for properties (e.g., rights-of-way) within the City that may not have a specific zoning district assigned to it. The A-Agriculture and the OS-Open Space Zoning Districts are considered to be conforming zoning districts to all General Plan land use designations and tend to be commonly assigned to properties that are annexed into the City from the County. The proposed ordinance would establish the A-Agriculture Zoning District as the default district for those properties without a designated zoning district.

A draft of the proposed ordinance is attached.

## **PUBLIC OUTREACH**

The public outreach for the proposed ordinance included a public outreach mailing to over 500 owners and occupants of property zoned either A-Agriculture or OS-Open Space. The outreach letter was mailed out on July 23, 2002. The outreach notice included a detailed description of the proposal and a request strongly encouraging recipients to contact staff to express comments and provide feedback. Numerous calls were received almost immediately following the mailing. This method of outreach allowed the public to interact with staff on a one-to-one basis. Many had expressed their gratitude for focused, undivided staff time. As standard practice, staff also posted the draft ordinance as well as the hearing dates on the Department's website. A public hearing notice was published in the Post Record.

## **COORDINATION**

Preparation of the proposed ordinance has been coordinated with the City Attorney's Office.

## **CEQA**

The proposed ordinance was found exempt from CEQA per Section 15303, under file no. PP02-07-196.

STEPHEN M. HAASE, DIRECTOR  
Planning, Building and Code Enforcement

Attachment

Staff Report\_ag-os.doc  
PBCE003/zoningordinance/  
SMH:phs